

to which an executor or administrator is party, plaintiff or defendant, shall abate by the death of such executor or administrator, but the same may be revived by or against the administrator *de bonis non*, or the executor of the executor of such deceased party, under the rules and regulations above prescribed.

5. No action of ejectment shall abate by the death of the defendant; but the same may be revived by serving on his heirs at law, or devisees, or the guardian, within two terms after his decease, a copy of the declaration filed in said action, together with a notice to the heirs or devisees, or their guardian, if they be minors, to appear and defend said suit, and after such service the suit shall stand revived, and shall be proceeded on in the same manner as if the defendant were living.

tor or administrator, plff. or deflt. — R. S. c. 2, s. 6.

Action of ejectment, on death of deflt., may be revived against his heirs or devisees. — R. S. c. 2, s. 7.

6. Whenever any of the heirs at law or devisees of such defendant, to whom the land in dispute shall descend or be devised, shall be minors without guardian, the court wherein the said suit is pending shall, upon application, appoint a guardian to defend the suit on their behalf.

Court may appoint guardians for infant defts. in ejectment. — R. S. c. 2, s. 8.

7. Whenever any of the heirs or devisees shall reside out of the State, the sheriff, or other officer, to whom the declaration and notice shall have been issued, shall state the fact in his return; whereupon, an advertisement of such notice shall be made for six weeks in some newspaper, and thereupon they shall be deemed to have been duly served with a declaration and notice, and the suit shall proceed accordingly.

How service to be made on heirs or devisees out of the State. — R. S. c. 2, s. 9.

8. Whenever the death of a person shall be caused by the negligence or default of any railroad or steamboat company, or of any steamboat or stage-coach proprietor, in this State, and the neglect or default is such as would have entitled the party injured to maintain an action and recover damages in respect thereof, if death had not ensued, then and in every such case, the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured.

Suits allowed for injuries where death ensues, 1854, c. 39, s. 1, 2, 3, 4.

9. Whenever the death of a person shall be caused by the wrongful act of another person, and the wrongful act is such as would have entitled the party injured to maintain an action and recover damages in respect thereof, if death had not ensued, then and in every such case, the person who would have been liable, if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

Same subject.

10. Every such action shall be brought by and in the name of the personal representative of the deceased, and the amount recovered shall be disposed of according to the statute for the distribution of personal property in case of intestacy; and in every such action the jury may give such damages as they shall deem fair and just, with reference to the pecuniary in-

How service to Rule for assessing damages.